XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(27)

**मामला क्रमांक** Cr.A.2500 **सन् 200**0

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Criminal Appeal No.2500 of 2000**

**Division Bench:** Hon'ble Shri Justice L.C. Bhadoo, &
Hon'ble Shri Justice Dhirendra Mishra, JJ

APPELLANT : Poyami Meso, aged about 30 years, S/o. Hadma Muriya, Occupation-Cultivator, R/o. Village-Korlapalli, P.S. Farsegarh, Distt.-Dantewara (MP)
(In jail)

Versus.

RESPONDENT : The State of Madhya Pradesh, Through the P.S. Farsegarh, Distt.-Dantewara (MP).

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Present : Shri R.K. Jain, Counsel for the appellant.

Shri D.K. Gwalre, Dy. G.A. for the State/respondent.

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**ORAL JUDGMENT**

**(19TH March, 2007)**

PER L.C. BHADOO, J

This appeal is directed against the judgment of conviction and order of sentence dated 16th August 2000 passed by Sessions Judge, Bastar at Jagdalpur in Sessions Trial No. 23/1999, whereby learned Sessions Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the IPC, sentenced him to undergo imprisonment for life.

P.T.O.

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**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश 2 | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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2. Case of the prosecution, in brief, is that Kudiyam Chinni, wife of the deceased, gave merg intimation (Ex.P/11) in the Police Station - Farsegarh, to the effect that on 25.10.1998 at about 4.00 p.m. Poyami Meso came to her house and asked her husband Maida to perform Pooja at his agriculture field as the crop was ripe for harvesting, on which her husband Maida replied that he will come tomorrow and in the meantime, you should make all preparations for performing Pooja. In the morning on 26.10.1998 her husband went to the agriculture field of the accused where accused Poyami Meso attacked him with axe on his back side and when her husband fell down, he attacked him with stone on his head, as a result of which he succumbed to the injuries. Based on this report, the Station House Officer, Police Station-Farsegarh, registered the First Information Report (Ex.P/6), left for the scene of occurrence and after giving notice to the Panchas prepared the inquest (Ex.P/1) on the body of deceased Kudiyami Maida. He took into possession the plain and blood-stained soil from the place of occurrence under Ex.P/2. He also seized the weapon of offence i.e. axe from the place of occurrence under Ex.P/3. The recovered articles were sent to Forensic Science Laboratory under Ex.P/4 from where report (Ex.P/5) was received. The body of deceased Maida was sent for postmortem examination to Primary Health Centre, Beejapur under Ex.P/15 where Dr. R.L. Gangesh (PW-4)

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**मामला क्रमांक ..Cr.A.2500.. सन् 2000**

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश 3 | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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conducted postmortem on the body of deceased and prepared the postmortem report (EX.P/7), in which he opined that mode of death is coma due to head injury and hypovolumic shock. After completion of the investigation charge sheet was filed in the Court of Chief Judicial Magistrate, Dantewada who in turn committed the case to the Sessions Judge, Jagdalpur where prosecution in order to establish the charge against the accused/appellant examined seven witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him.

3. After hearing counsel for the respective parties, learned Sessions Judge convicted and sentenced the accused as aforementioned.

4. We have heard Mr. R.K.Jain, counsel for the accused/appellant and Mr. D.K. Gwalre, Dy. G.A. appearing for the State/respondent.

5. Mr. Jain, has not disputed the homicidal death of deceased Maida. Moreover, Dr. R.K. Gangesh (PW-4) has stated in his evidence that he conducted postmortem on the body of deceased Maida and found that there was an incised wound on the occipital region, another incised wound between inter-scapular region and on dissection he noticed that occipital bone was fractured, 5$^{th}$ & 6$^{th}$ thoracic vertebra were cut, brain membrane was ruptured and the death was homicidal in nature. This medical evidence also stands corroborated by the

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**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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evidence of PW-2 Kudiyam Lakhmu, who witnessed the crime and PW-7 Kudiyam Hingaram, Sarpanch of the village, before whom accused/appellant made extra judicial confession. Therefore, in view of above, it is established that death of Maida was homicidal in nature.

6. As far as involvement of the accused/appellant in crime in question is concerned, PW-2 Kudiyam Lakhmu has stated that on the fateful day he was at his agriculture field to protect his crop from sparrows, accused was also at his field, at that time he saw that accused was attacking Maida with axe on his back and thereafter, he was attacking Maida with stone on his head. In the cross-examination of this witness defence has not been able to elicit any circumstance to discredit the evidence of this witness. Even in paragraph -6 on a question put by the Court, he has stated that while beating drum outside the residence of Sarpanch, the accused was saying that he has murdered Maida. PW-7 Kudiyam Hingaram, who is none else than brother-in-law of the accused and was Sarpanch of the village at the relevant time, has stated that accused came to his residence and disclosed that he has committed murder of Maida with the axe. After disclosure of this fact by accused Meso to him, he called the villagers by beating drum and thereafter, went along with them to the place of occurrence where they saw the dead body of Maida lying in

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**मामला क्रमांक** ..Cr.A. 250.. **सन्** 2000

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश 6 | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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the agriculture field of Meso. There were injuries on the back and head. On enquiry being made, accused Meso made extra judicial confession before him and the villagers. Thereafter, on matter being reported in the police station, inquest (Ex.P/5) was prepared. In the cross-examination he has stated that accused is his brother-in-law, the deceased is his nephew and it is incorrect to say that he has any animosity against the accused. Thus, being a village Sarpanch and brother-in-law of the accused, it was but natural for the accused to go to him and make extrajudicial confession before him. In the cross-examination the defence has not been able to elicit any circumstance which makes the evidence of this witness unreliable or untrustworthy. There is no evidence on record to suggest that the extra judicial confession made by the accused/appellant was not voluntary, rather this extrajudicial confession is found to be reliable and true because the same is corroborated by the evidence of eyewitness PW-2 Kudiyam Lakhmu.

7. For the foregoing reasons, we are of the considered opinion that there is no illegality or infirmity in the impugned judgment of the trial Court. The appeal being devoid of merit is liable to be dismissed and is hereby dismissed.

**Sd/-**
**L.C.BHADOO**
**Judge**

**Sd/-**
**DHIRENDRA MISHRA**
**Judge**

P.T.O.